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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,635	12/11/2001	Helmut Ruckert	AP9673	3938

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,635

Applicant(s)

RUCKERT ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19 and 28-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19 and 28-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 34 and 35 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 34 depends on itself. For examining purposes, Examiner has interpreted claim 34 as depending on claim 32. Claim 35 is objected to due to its dependency from claim 34.

2. Claims 19 and 28-36 are objected to because of the following informalities: in line 5 of both claims 31 and 32 the phrase "said circumferential piston groove" should be changed to --said circumferential groove-- since there was no previous recitation of -a circumferential piston groove--; in lines 1-2 of claim 34 the phrase "The brake pad...further comprising two generally U-shaped portions arranged between the three spring portions" should be changed to such language as --The brake pad...wherein the spring element further comprises two generally U-shaped portions arranged between the three spring portions-- to clearly set forth sections 4c and 4e from other U-shaped portions on the brake arranged between the three spring portions. Appropriate correction is required. The remaining claims are objected to due to their dependency from one of claims 31 and 32.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

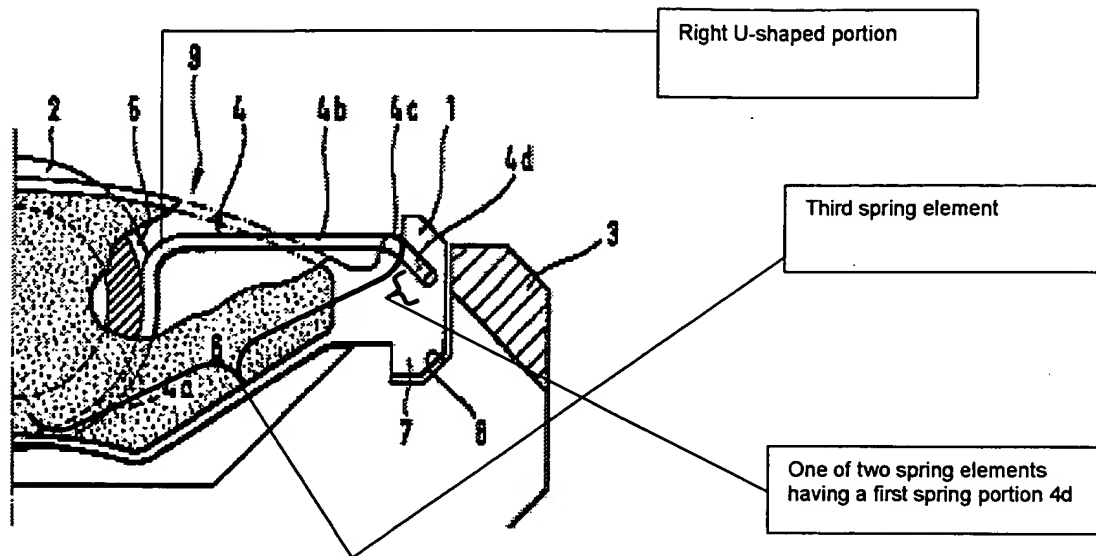
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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19, 28, 29, and 31-35 are rejected under 35 U.S.C. 102(b) as being anticipated by DE-19705803 to Winter.

Re: claims 28, 31, 32 and 34. Winter shows in figure 1 a brake pad 9 and brake piston assembly, comprising: a brake piston 2 having an axis and an outer surface encircled by a circumferential groove 5, a retaining spring 4 coupled to a brake pad 1,6, wherein the retaining spring engages the circumferential piston groove as shown in figure 2, thereby detachably coupling the brake pad to the piston, wherein the retaining spring includes two spring elements as labeled in the modified version of figure 1 on pg. 4 of the Office Action arranged opposite each other with respect to the piston axis, each spring element having a first spring portion left and right side elements 4d which applies an axial spring force as discussed in the second paragraph on pg. 4 of the translation of Winter at a contact point location on opposite sides of the piston to urge the brake pad against the piston, and a third spring element as labeled on pg. 4 arranged between the two spring elements (left and right spring elements) having a second spring portion 4c which applies a radial spring force as discussed in the second paragraph on pg. 4 of the translation of Winter to the brake pad at one contact point location in a vertical direction which is generally perpendicular to the piston axis.



Re: claims 19 and 33. Winter shows in figure 1 the brake pad including a carrier plate 1 and a friction lining 6.

Re: claims 29 and 35. Winter shows in figure 2 the limitation of at least one retaining member configured as a hook or eyelet or eyelet surrounding element 4c embracing one of the spring elements.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winter in view of US Patent 5816370 to Verbeeten et al.

Winter fails to disclose a retaining plate configured as a damping plate.

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Verbeeten et al. disclose a damper plate for a disc brake lining. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have included a retainer plate configured as a damping plate, according to the teachings of Verbeeten et al., in order to provide the Winter assembly with noise damping properties.

Response to Amendment

7. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

8. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Examiner has considered an alternate perspective of Winter. With regards to claim 31, it is noted that the claim language does not preclude the use of spring sections as spring elements. Examiner notes that the first definition in section 2 of the definition of the word "element" provided by Applicant is "a constituent part". Examiner notes that the spring elements shown in the modified version of figure 1 on pg. 4 of the Office Action are constituent parts.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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mmb

April 4, 2005

Melody M. Bond
4/4/05